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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,254	12/15/2003	Sebastian Bierwirth	TRW(AS)6891	6430
26294	7590	09/01/2006	EXAMINER	
TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1300 EAST NINTH STREET, SUITE 1700 CLEVEVLAND, OH 44114			CHAMBERS, TROY	
			ART UNIT	PAPER NUMBER
			3641	

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/736,254	<b>Applicant(s)</b> BIERWIRTH ET AL.	
	<b>Examiner</b> Troy Chambers	<b>Art Unit</b> 3641	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-13 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Oath/Declaration***

1. The full name of each inventor (family name and at least one given name together with any initial) has not been set forth.

- Karsten Schwuchow seems to have been misspelled.

### ***Drawings***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 36 (may not be exhaustive listing). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "at least one thermally insulating foil layer with varying thickness" (claim 1) and a base layer (32) having front and rear sides which are covered by a foil layer (24) must be shown or the feature(s) canceled from the claim(s). The drawings appear to show several pieces of

plastic (34) that may be of varying thickness but there is not disclosed one foil layer with varying thickness. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The disclosure is objected to under 37 C.F.R. 1.71 for failing to provide a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

5. Specifically, the applicant specification describes an insulating foil having several layers. One of the layers is a plastic that is constructed such that outflow openings are opened by gas at various temperatures. However, neither the specification nor the drawings disclose the features of the foil layer(s) such that one of ordinary skill in the art could make and use without undue experimentation. For example, what materials comprise the insulating foil and what are the corresponding thicknesses that would provide for the disclosed gas flows?

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, neither the drawings nor written specification disclose a base layer (32) having front and rear sides covered by a foil layer (24).

8. Claims 11-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the

invention. Specifically, the applicant's specification does not describe how or in what manner the insulation foil is constructed such that performs each of the functions in claims 11, 12 and 13 when subjected to the claimed temperatures. For example, the specification does not mention the metals, plastics or foil thicknesses that would enable the claimed device. This deficiency would require one of ordinary skill in the art to engage in undue experimentation.

***Claim Rejections - 35 USC § 102***

9. The following rejections are applied as the claimed invention can best be understood by the Examiner in view of the objections/rejections discussed above.
10. Claim 1 uses the transitional phrase "comprising". Therefore, claims 2 and 4 are not limited to the materials claimed therein.
11. With respect to claim 6, the manner of making does not serve to patentably limit the claimed structure.
12. With respect to claim 8, the thickness of insulating foil layer is zero where there is no foil at all.
13. With respect to claims 11-13, the specification does not provide a disclosure that provides a description of a foil that patentably distinguishes over the prior art. Because claim 1 merely requires a foil comprising a destructible foil and thermally insulating foil layer, any prior art reference that discloses said layers inherently possesses the features claimed by the applicant.
14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

15. Claims 1-8 and 11-13 are rejected under 35 U.S.C. 102(a/e) as being anticipated by U.S. 20030160437 issued to Ohji. The relevant portions can be found at Fig. 1 and paragraph [0071].

16. Claims 1-8 and 11-13 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6851374 issued to Kelley et al. (hereinafter "Kelley"). Kelley discloses a gas generator as shown in Fig. 2 with burst tape 70. Tape inherently has at least 2 layers including a base layer and an adhesive layer. The relevant portions can be found at: col. 3., ll. 17-44.

#### ***Allowable Subject Matter***

17. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **REPLY TO NON-FINAL OFFICE ACTION**

In response to the above adverse Office action, the applicant, if he or she persists in his or her application for a patent, must reply and request reconsideration or further examination, with or without amendment. See, 37 C.F.R. §1.111 (a)(1). (Emphasis added).

In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which **distinctly** and **specifically** points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the **specific distinctions** believed to render the claims, *including any newly presented claims*, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. *A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.* See, 37 C.F.R. §1.111 (a)(1). (Emphasis added).

The Examiner requests the applicant comply with the requirements of 37 C.F.R. § 1.111 by submitting a reply that includes the following:

- a. A statement that **specifically** and **distinctly** points out the claim element(s) or function(s) the applicant believes to be patentable over the applied prior art. The applicant should, in addition, provide a copy of the claim with the relevant portions highlighted for the Examiner's review.
- b. A reference to the portion of the specification that provides support for the alleged patentable subject matter.



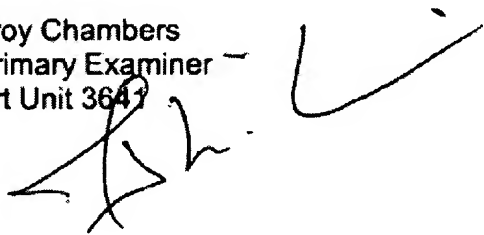
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- c. A statement that **specifically** and **distinctly** points out how the language of the claims is patentably distinguished from the cited prior art.

***Conclusion***

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited on form PTO-892 are cited as of interest to show similar gas generators.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is (571) 272-6874 between the hours of 7:00 a.m. to 3:30 p.m., M-F. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached at (571) 272-6873.

Troy Chambers  
Primary Examiner  
Art Unit 3641



TC  
24 August 2006